

AN ACT relating to the unemployment tax credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 141.065 is amended to read as follows:

(1) *For taxable years beginning before January 1, 2020,*~~[For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.~~

~~(2)~~ there shall be *permitted*~~[allowed]~~ as a credit for any taxpayer against the tax imposed by KRS 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the credits as provided in KRS 141.0205, an amount equal to:

(a) One hundred dollars (\$100) for each *individual*~~[person]~~ hired by the taxpayer, if that *individual*~~[person]~~

1. Has been classified as unemployed by the Office of Employment and Training of the Department of Workforce Investment in the Education and Workforce Development Cabinet~~[and has been so classified]~~ for at least sixty (60) days prior to his *or her* employment by the taxpayer;~~;~~ and~~[if further that person]~~

2. Has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit; or

(b) *One thousand dollars (\$1,000) for each individual hired by the taxpayer, if that individual:*

1. *Meets the qualifications provided in paragraph (a)1. and 2. of this subsection; and*

2. *Immediately prior to becoming unemployed, was working for an entity in the coal industry, including the:*

a. *Mining of bituminous or anthracite coal or lignite;*

b. *Developing of bituminous or anthracite coal or lignite mine*

sites;

c. Processing of coal, including cleaning, washing, screening, or sizing the coal;

d. Transportation of coal; and

e. Exploration for coal, including prospecting, sampling, surveying, or mapping services.

~~(2)~~~~(3)~~ No credit shall be permitted~~allowed~~ to any taxpayer for any individual~~person~~ hired under any of the following circumstances:

- (a) An individual~~A person~~ for whom the taxpayer receives federally funded payments for on-the-job training;
- (b) An individual~~For any person~~ who bears any of the relationships to the taxpayer described in Internal Revenue Code~~paragraphs (1) through (8) of~~ Section 152(a)(1) or (2) and defined in Internal Revenue Code Section 152 (c) or (d);~~of the Internal Revenue Code, or,~~
- (c) If the taxpayer is a corporation,~~to~~ an individual who owns, directly or indirectly, more than ten~~fifty~~ percent (10%)~~(50%)~~ in value of the outstanding stock of that~~the~~ corporation as determined by Internal Revenue Code~~with the application of~~ Section 267(c)~~of the Code~~; or
- ~~(d)~~(e) If the taxpayer is an estate or trust, an individual~~to any person~~ who is:
 1. A grantor, beneficiary, or fiduciary of that~~the~~ estate or trust;~~;~~ ~~or~~ ~~is~~
 2. An individual who bears any of the relationships described in Internal Revenue Code~~paragraphs (1) through (8) of~~ Section 152(a)(1) or (2)~~of the Code~~ to a grantor, beneficiary, or fiduciary of the estate or trust;~~;~~
or
- ~~(d)~~ ~~To any person who is a dependent of the taxpayer as described in Code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust].~~

- ~~(3) [(4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to that term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.~~
- ~~(5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and }In no instance shall the credit *permitted*[- if any, allowable] by subsection ~~(1)~~~~(2)~~ of this section for any *qualified* employee[- qualified thereunder] be claimed more than once for any taxable year.~~
- ~~(4)~~~~(6)~~ No credit shall be *permitted*~~allowed~~ under subsection ~~(1)~~~~(2)~~ of this section to any organization which is exempt from income tax by this chapter.
- ~~(5)~~~~(7)~~ In the case of a pass-through entity *not subject to the tax imposed by KRS 141.040*, the amount of the credit determined under this section for any taxable year shall be applied at the entity level against the limited liability entity tax imposed by KRS 141.0401 and shall also *be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income as determined for the year*~~be apportioned pro rata among the members, partners, or shareholders of the limited liability entity on the last day of the taxable year, and any person to whom an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount~~.
- ~~(8) In the case of an estate or trust, the amount of the credit determined under this~~

~~section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.]~~

~~(6)~~⁽⁹⁾ In no event shall the credit permitted~~[allowed]~~, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

(7) (a) The purpose of the unemployment tax credit permitted in subsection (1) of this section is to encourage employers in the Commonwealth to hire individuals that have been unemployed for at least sixty (60) days, with an emphasis on increased benefit for employers hiring former coal workers who are unemployed.

(b) Notwithstanding KRS 131.190, the department shall provide the following information to the Legislative Research Commission no later than December 1, 2017, and each year thereafter as long as the credit is permitted:

1. The total value of the credits claimed by all taxpayers for each of the credits permitted pursuant to subsection (1)(a) and (b) of this section on returns filed within the preceding fiscal year; and
2. The number of individuals hired, separated by county, for each of the credits permitted pursuant to subsection (1)(a) and (b) of this section, based on the county of residence for that individual.

➔Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS

141.020 shall be taken in the following order:

- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (c) The qualified farming operation credit permitted by KRS 141.412;
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- (e) The health insurance credit permitted by KRS 141.062;
- (f) The tax paid to other states credit permitted by KRS 141.070;
- (g) The credit for hiring the unemployed permitted by KRS 141.065 **(1)(a) or (b)**;
- (h) The recycling or composting equipment credit permitted by KRS 141.390;
- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (j) The coal incentive credit permitted ~~by~~ under KRS 141.0405;
- (k) The research facilities credit permitted ~~by~~ under KRS 141.395;
- (l) The employer GED incentive credit permitted ~~by~~ under KRS 164.0062;
- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- (o) The environmental stewardship credit permitted by KRS 154.48-025;
- (p) The clean coal incentive credit permitted by KRS 141.428;
- (q) The ethanol credit permitted by KRS 141.4242;
- (r) The cellulosic ethanol credit permitted by KRS 141.4244;

- (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The food donation credit permitted by KRS 141.392;
 - (x) The distilled spirits credit permitted by KRS 141.389; and
 - (y) The angel investor credit permitted by KRS 141.396.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit permitted~~allowed~~ by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065**(1)(a) or (b)**;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
 - (k) The research facilities credit permitted ~~by~~under KRS 141.395;
 - (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;

- (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (v) The railroad expansion credit permitted by KRS 141.386;
 - (w) The Endow Kentucky credit permitted by KRS 141.438;
 - (x) The New Markets Development Program credit permitted by KRS 141.434;
 - (y) The food donation credit permitted by KRS 141.392; and
 - (z) The distilled spirits credit permitted by KRS 141.389.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383.